

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

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4 WELLS FARGO BANK, N.A. AS
5 TRUSTEEFOR THE CERTIFICATEHOLDERS
6 OFBANC OF AMERICA
7 FUNDINGCORPORATION, MORTGAGE
8 PASSTHROUGH CERTIFICATES, SERIES
9 2005-B,

10 Plaintiff,

11 vs.
12 SFR INVESTMENTS POOL 1, LLC,

13 Defendant.

14 2:20-cv-01277-GMN-VCF
15 **ORDER GRANTING IN PART MOTION TO**
16 **STAY, ECF. No 14**

17 Before the court is SFR Investments Pool 1., LLC's Motion to Stay Litigation Pending its Motion
18 to Dismiss [ECF No.10] (ECF No. 14). For the reason's discussed below, the motion is granted in part.

19 Because SFR's motion to dismissed is based on a statute of limitation defense, SFR requests a stay
20 of all discovery. *Id.* Plaintiff's response was a limited opposition. Plaintiff argues that there are a number
21 of ways around the statute of limitations defense. (ECF No. 16). Plaintiff also states that the precise issue
22 raised in the pending motion to dismiss in this case is pending before the Nevada Supreme Court, as
23 certified by the Ninth Circuit. Plaintiff requests that the court deny SFR's Motion to Stay, "only to the
24 extent that [plaintiff] should be allowed to continue its efforts to subpoena third parties for relevant
25 documents...."

26 SFR did not file a reply and the time to reply has passed. Under LR 7-2(b), the deadline to file
27 and serve any reply in support of the motion is seven days after service of the response. Since no reply
28 was filed, it would seem that SFR agrees with Plaintiff's limited opposition.

29 When determining whether a stay is appropriate pending the resolution of another case, the district
30 court must weigh: (1) the possible damage that may result from a stay, (2) any "hardship or inequity" that
31 a party may suffer if required to go forward, (3) "and the orderly course of justice measured in terms of

1 the simplifying or complicating of issues, proof, and questions of law" that a stay will engender. *Lockyer*
2 *v. Mirant Corp.*, 398 F.3d 1098, 1110 (9th Cir. 2005).

3 Applying the Lockyer factors, the court finds allowing only third-party discovery to proceed in
4 this case, pending resolution of SFR's Motion to Dismiss, ECF No. 10, properly balances the possible
5 damage that might result from a complete stay of discovery with any adverse consequences caused by this
6 limited discovery.

7 Accordingly,

8 IT IS HEREBY ORDERED THAT SFR Investments Pool 1., LLC's Motion to Stay Litigation
9 Pending its Motion to Dismiss [ECF No.10] (ECF No. 14) is GRANTED IN PART. Discovery is
10 STAYED, except that the parties may subpoena third parties for relevant documents.

11 In the event resolution of Defendant's motion to dismiss (ECF No. 10) does not result in the
12 disposition of this case, the parties must file a new joint discovery plan within 14 days of the issuance of
13 the order deciding that motion.

14 IT IS FURTHER ORDERED THAT the Proposed Joint Discovery Plan and Scheduling Order,
15 ECF No. 15, is DENIED without prejudice to the parties conducting the limited discovery permitted by
16 this order during the pendency of the Motion To Dismiss.

17 DATED this 29th day of December, 2020.



18 CAM FERENBACH
19 UNITED STATES MAGISTRATE JUDGE
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